

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA
SACRAMENTO**

In the Matter of the Certificates of
Authority of:

File No. DISP05046622

FIRST AMERICAN TITLE INSURANCE
COMPANY,

ORDER RE STIPULATION AND WAIVER

In the Matter of:

FIRST AMERICAN HOMEBUILDERS
REINSURANCE COMPANY,

Respondents.

WHEREAS, on or about July 18, 2005, the Commissioner of Insurance (hereafter
“Commissioner”) caused to be served upon FIRST AMERICAN TITLE INSURANCE
COMPANY (hereafter “FIRST AMERICAN”) and FIRST AMERICAN HOMEBUILDERS
REINSURANCE COMPANY (hereafter “FIRST AMERICAN HOMEBUILDERS”) an
Accusation, Notice of Noncompliance, Demand for Monetary Penalty, and Right to Issue Order
to Show Cause, denominated “In the Matter of the Certificates of Authority of: FIRST
AMERICAN TITLE INSURANCE COMPANY” and “In the Matter of: FIRST AMERICAN
HOMEBUILDERS REINSURANCE COMPANY,” Respondents, File No. DISP05046622
(hereafter “Accusation”). Said Accusation is incorporated herein by reference, and alleged that
FIRST AMERICAN engaged in activities which aided the transaction of insurance by FIRST
AMERICAN HOMEBUILDERS, in violation of California Insurance Code §703(c); engaged in
activities which constitute an unfair method of competition and/or unfair or deceptive acts or

1 practices, in violation of California Insurance Code §§790.03(d), 790.03(e), and 790.06(a); filed
2 false annual and financial statements, in violation of California Insurance Code §§900 and 900.9;
3 engaged in unlawful rebate activities/inducement activities in violation of the requirements and
4 standards of Article 6, Chapter 1, Part 6, Division 2 (commencing with §12404) of the Insurance
5 Code, and Section 8(a) of RESPA (12 U.S.C. §2607(a)); and that FIRST AMERICAN
6 HOMEBUILDERS transacted reinsurance business in the State of California without first being
7 admitted for that class, in violation of California Insurance Code §700(a); and,

9 WHEREAS, Respondents have executed a Stipulation and Waiver in which they waived
10 their rights to a hearing in this matter, and any other rights which may be accorded pursuant to the
11 provisions of the California Administrative Procedure Act (Government Code Sections 11500-
12 11528) or California Insurance Code, and have stipulated to the entry of this Order. Said
13 Stipulation and Waiver is incorporated herein by reference; and,

15 GOOD CAUSE APPEARING,

16 IT IS HEREBY ORDERED that FIRST AMERICAN shall Cease and Desist from
17 engaging in captive reinsurance business arrangements with non-admitted reinsurance entities
18 which may be in violation of California Insurance Code §§35, 700(a), 703(c), 12404 and 12405;
19 and,

21 IT IS FURTHER ORDERED that FIRST AMERICAN HOMEBUILDERS shall Cease
22 and Desist from transacting insurance in the State of California without a license in violation of
23 California Insurance Code §§35 and 700 et seq.; and,

24 IT IS FURTHER ORDERED that FIRST AMERICAN shall Cease and Desist from
25 activities which may be in violation of, or noncompliant with, California Insurance Code
26 §§703(c), 790.03(d), 790.03(e), 790.06(a), 900, 900.9, 12404, 12405, 12405.7, and 12406; and,

1 IT IS FURTHER ORDERED that FIRST AMERICAN shall Cease and Desist from
2 engaging in captive reinsurance arrangements which may violate the provisions of California
3 Insurance Code §12404 prohibiting illegal rebate/inducement activities; and,

4 IT IS FURTHER ORDERED that FIRST AMERICAN shall pay to each California
5 consumer who purchased from FIRST AMERICAN a title insurance policy that was subject to
6 the captive reinsurance arrangement, an amount equal to the premium that was ceded by FIRST
7 AMERICAN to the reinsurer, which payments shall not exceed fifteen million one hundred
8 thousand dollars (\$15,100,000.00) in the aggregate. Said payments shall be subject to the terms,
9 conditions and restrictions as more fully described in the Stipulation and Waiver incorporated
10 herein by reference; and

11 IT IS FURTHER ORDERED that FIRST AMERICAN shall pay, within 10 business days
12 of receipt of an invoice from the Department of Insurance, Division of Accounting, 300 Capitol
13 Mall, 13th Floor, Sacramento, California 95814, the amount of four million six hundred and
14 twenty five thousand dollars (\$4,625,000.00) to the California Department of Insurance
15 (“DEPARTMENT”) as a monetary penalty pursuant to California Insurance Code §§12409 and
16 12976 in settlement of the Accusation; and,

17 IT IS FURTHER ORDERED that FIRST AMERICAN shall pay, within 10 business days
18 of receipt of an invoice from the Department of Insurance, Division of Accounting, 300 Capitol
19 Mall, 13th Floor, Sacramento, California 95814, the amount of one hundred thousand dollars
20 (\$100,000.00) to the California Department of Insurance as a monetary penalty pursuant to
21 California Insurance Code §§790.03 and 900.8 in settlement of the Accusation; and,

22 IT IS FURTHER ORDERED that FIRST AMERICAN shall pay, within 10 business days
23 of receipt of an invoice from the Department of Insurance, Division of Accounting, 300 Capitol
24 Mall, 13th Floor, Sacramento, California 95814, the amount of one hundred thousand dollars
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(\$100,000.00) to the California Department of Insurance as a monetary penalty pursuant to California Insurance Code §§700 and 703 in settlement of the Accusation; and,

IT IS FURTHER ORDERED that FIRST AMERICAN shall pay, within 10 business days of receipt of an invoice from the Department of Insurance, Division of Accounting, 300 Capitol Mall, 13th Floor, Sacramento, California 95814, the amount of one hundred seventy five thousand dollars (\$175,000.00) to the California Department of Insurance for reimbursement of costs pursuant to California Insurance Code §§12389; and,

IT IS FURTHER ORDERED that FIRST AMERICAN shall cooperate with the California Department of Insurance in identifying components of, and filing for, appropriate title insurance rate reductions for builder-sold homes; and,

IT IS FURTHER ORDERED that FIRST AMERICAN assist the California Department of Insurance in improving consumer awareness of title insurance rates, including but not limited to, providing rate and premium information for the DEPARTMENT'S public web site; and,

IT IS FURTHER ORDERED that FIRST AMERICAN shall work with the California Department of Insurance in preventing illegal rebate/inducement activities, which may include by way of example and not by way of limitation, establishing educational programs for its employees, and developing internal monitoring and compliance procedures; and

IT IS FURTHER ORDERED that this Order shall become effective immediately upon the date set forth below.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, this
2nd day of November, 2005.

JOHN GARAMENDI
Insurance Commissioner

By: /s/
JOHN GARAMENDI
Insurance Commissioner